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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY *04* DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

June 2014 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEAN ENRIQUE O'KEEFE,

Defendant.

Case No. 2014 CR 2354-BAS

I N D I C T M E N T

Title 18, U.S.C., Secs. 1341 and 1346 - Mail Fraud; Title 18, U.S.C., Sec. 2 - Aiding and Abetting; Title 18, U.S.C., Sec. 981(a)(1)(C) and Title 28, U.S.C., Sec. 2461 - Criminal Forfeiture

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant:

1. Defendant SEAN E. O'KEEFE (hereinafter referred to as "O'KEEFE") was an attorney licensed in the state of California to practice law. O'KEEFE owned and operated "The Law Offices of Sean E. O'KEEFE," in San Diego. O'KEEFE was admitted to the California State Bar in 1984, and has been a certified specialist in the area of California Workers' Compensation Law since 1998.

2. O'KEEFE represented clients in their workers' compensation cases, helping to manage their medical care, interacting with their insurers, and representing them before the Worker's Compensation Appeals Board.

1       3. The California Workers' Compensation System ("CWCS")  
2 required that employers in California provide workers' compensation  
3 benefits to their employees for qualifying injuries sustained in the  
4 course of their employment. The CWCS was regulated by the California  
5 Labor Code, the California Insurance Code, and the California Code of  
6 Regulations, and was administered by the California Department of  
7 Industrial Relations.

8       4. CWCS benefits were administered by the employer, an insurer,  
9 or a third party administrator. The CWCS required claims  
10 administrators to authorize and pay for medical care that was  
11 "reasonably required to cure or relieve the injured worker from the  
12 effects of his or her injury," and included medical, surgical,  
13 chiropractic, acupuncture, and hospital treatment.

14       5. The State Compensation Insurance Fund ("SCIF") was a  
15 quasi-governmental organization which operated as a private company  
16 and was considered the insurer of last resort, playing a key role in  
17 guaranteeing the availability of affordable workers' compensation  
18 insurance in California.

19       6. Injured employees could retain attorneys to represent them  
20 in their workers' compensation cases. These attorneys were called  
21 "applicants' attorneys." They were paid a fee out of the applicant's  
22 recovery. According to the California Department of Industrial  
23 Relations, the applicant attorney's job included protecting the rights  
24 of the client, planning a strategy for the client's case to obtain all  
25 the benefits owed to the client, advocating for the client, gathering  
26 information to support the client's claim, and representing the client  
27 before a workers' compensation judge. It was not part of the  
28

1 applicant attorney's job to seek or accept kickbacks to the attorney  
2 for referrals to particular surgeons or hospitals.

3       7.    Worker's compensation attorneys often recommended that their  
4 worker's compensation clients see certain doctors. Those doctors, in  
5 turn, recommended that the clients be treated at the hospital or  
6 facility at which they had admitting privileges and where they  
7 performed surgeries. Insurance providers and SCIF paid the hospitals  
8 and surgeons for medical services provided to workers' compensation  
9 patients.

10       8. Attorneys owed a fiduciary duty to their clients. This duty  
11 required that attorneys act in their client's best interests, and not  
12 for their own professional, pecuniary, or personal gain. Accepting  
13 kickbacks without the client's consent was a breach of the attorney's  
14 fiduciary duty.

15       9. Michael Drobot (charged elsewhere), (hereinafter "Drobot")  
16 owned and operated Pacific Hospital of Long Beach in Long Beach,  
17 California, as well as other entities.

18       10. "Dr. A," "Dr. B," "Dr. C," and "Dr. D." were spine surgeons  
19 who practiced in San Diego and other locations.

20        11. "M.R.," "A.S.," "E.D.L.T.," "T.M.," "O.E.L.," "S.N.B.,"  
21 "L.H.," and "R.A." were injured workers who retained O'KEEFE for  
22 assistance in pursuing workers' compensation benefits.

### Counts 1-15

## MAIL FRAUD

[18 U.S.C. § 1341 & 1346]

26       12. The allegations contained at paragraphs 1 through 11 are  
27 realleged and incorporated by reference.

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1       13. Beginning on an unknown date, but no later than April 2011,  
2 and continuing through at least June 2014, within the Southern  
3 District of California and elsewhere, defendant SEAN ENRIQUE O'KEEFE  
4 and others knowingly and with the intent to defraud, devised a  
5 material scheme to defraud, that is, to deprive O'KEEFE's clients of  
6 their intangible right to his honest services as their attorney, and  
7 to obtain money and property from employers, insurance carriers, and  
8 the State Compensation Insurance Fund by means of material false and  
9 fraudulent pretenses, representations, promises, and omissions.

## MANNER AND MEANS

11       14. The scheme was carried out using the following manner and  
12 means, among others:

13 a. O'KEEFE entered into agreements with Drobot and others  
14 to obtain kickbacks for referring O'KEEFE's law clients to specific  
15 doctors, including Drs. A, B, C, and D, for spinal surgery.

16 b. Based on the fraudulent offer of kickbacks, O'KEEFE  
17 referred his clients with spinal injuries to Drs. A, B, C, and D for  
18 evaluation and surgery, in violation of his fiduciary duty to his  
19 clients.

20 c. O'KEEFE concealed from his clients the kickback  
21 payments he received from Drobot and others, in violation of his  
22 fiduciary duty to his clients.

23                   d. O'KEEFE disguised and concealed the illegal kickback  
24 scheme by instructing Drobot to pay the kickbacks to employees of  
25 O'KEEFE's law firm, to whom O'KEEFE owed compensation, and to  
26 misrepresent these employees as working for Drobot or one of Drobot's  
27 companies.

28 //

1 e. O'KEEFE disguised and concealed the illegal kickback  
2 scheme by entering into sham legal retainer agreements with Drobot and  
3 others.

4 f. O'KEEFE generated fraudulent "legal invoices" to Drobot  
5 and others for services he and his firm never provided in an effort to  
6 disguise and conceal the illegal kickbacks.

7 g. The corrupt doctors and hospitals that treated  
8 O'KEEFE's clients submitted bills, reports, and other documents, to  
9 SCIF and other insurance carriers via U.S. mail, and fraudulently  
10 concealed the illegal kickbacks from SCIF and other insurance carriers  
11 in those mailings.

12 h. O'KEEFE concealed his illegal kickback scheme in  
13 communications he sent, or caused to be sent, via U.S. mail to his  
14 legal clients, SCIF and other insurance carriers.

15 i. O'KEEFE regularly signed and sent to his clients, to  
16 insurance companies, and to SCIF a "Statement in Compliance with Labor  
17 Code § 4906(G)" that he "[had] not offered, delivered, received, or  
18 accepted any rebate, refund, commission, preference, patronage,  
19 dividend, discount, or other consideration, whether in the form of  
20 money or otherwise, as compensation or inducement for any referred  
21 examination or evaluation."

22 j. O'KEEFE caused SCIF and other insurance carriers to pay  
23 for the surgeries procured through kickbacks by checks sent through  
24 U.S. mail.

## **EXECUTION OF THE SCHEME**

26       15. On or about the dates listed below, within the Southern  
27 District of California and elsewhere, defendant O'KEEFE, for the  
28 purpose of executing the above-described scheme to defraud, and

1 attempting to do so, caused the following to be placed in a post  
 2 office and authorized depository for mail matters to be delivered by  
 3 the United States Postal Service and private and commercial interstate  
 4 carriers:

Count	Date	Sender	Recipient	Description
1	5/2/2011	O'KEEFE Law Firm	Patient M.R.	Letter providing notice that patient M.R. was selecting Dr. B as M.R.'s primary treating physician
2	5/2/2011	O'KEEFE Law Firm	Patient A.S.	Letter providing notice that patient A.S. was selecting Dr. B as A.S.'s primary treating physician
3	5/5/2011	O'KEEFE Law Firm	SCIF	Letter notifying SCIF that patient T.M. was electing Dr. A as T.M.'s treating physician
4	6/20/2011	O'KEEFE Law Firm	Lumbermens Underwriting	Letter providing notice that patient E.D.L.T. was selecting Dr. B as E.D.L.T.'s treating physician
5	9/20/2011	O'KEEFE Law Firm	SCIF	Letter notifying SCIF that patient T.M. was electing Dr. B as T.M.'s secondary treating physician
6	10/6/2011	Dr. B's office	SCIF	Surgical report and recommendation by Dr. B concerning patient A.S.
7	4/3/2012	O'KEEFE Law Firm	Patient L.H.	"Statement in Compliance with Labor Code §4906(G)" signed by O'KEEFE regarding patient L.H.
8	11/12/2013	O'KEEFE Law Firm	Zenith Insurance Co.	Letter providing notice that patient O.E.L. was electing Dr. C as O.E.L.'s treating physician

Count	Date	Sender	Recipient	Description
1 2 3	11/27/2013	O'KEEFE Law Firm	SCIF	Letter providing notice that patient O.E.L. was electing Dr. D as O.E.L.'s treating physician
4 5 6	11/27/2013	O'KEEFE Law Firm	Patient O.E.L.	Letter notifying patient O.E.L. that O'KEEFE's office had scheduled an initial appointment for O.E.L. with Dr. D
7 8 9 10 11	1/13/2014	O'KEEFE Law Firm	SCIF	Letter notifying SCIF that if it failed to authorize Dr. D to treat patient O.E.L., O'KEEFE's firm would file a petition for sanctions for unreasonable delay in medical treatment
12 13 14	2/1/2014	O'KEEFE Law Firm	American Claims Management	Letter objecting to the insurance company's denial of treatment recommendations for patient S.N.B.
15 16 17	2/11/2014	Hospital in San Diego	Broadspire Worker's Comp.	Claim for payment for patient R.A.'s spinal surgery, including invoices totaling \$1 million and supporting reports by Dr. C
18 19 20	4/14/2014	O'KEEFE Law Firm	Patient S.N.B.	"Statement in Compliance with Labor Code §4906(G)" signed by O'KEEFE regarding patient S.N.B.
21 22 23	4/14/2014	O'KEEFE Law Firm	American Claims Management	Letter providing notice that patient S.N.B. was electing Dr. D as S.N.B.'s treating physician

24 All in violation of Title 18, United States Code, Sections 1341, 1346,  
 25 and 2.

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FORFEITURE ALLEGATIONS

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2       16. The allegations contained in paragraphs 1 through 15 of this  
3 Indictment are hereby realleged and incorporated by reference for the  
4 purpose of alleging forfeiture pursuant to Title 18, United States  
5 Code, Section 981(a)(1)(C) and Title 28, United States Code,  
6 Section 2461.

7       17. Upon conviction of Counts 1 through 15, defendant SEAN  
8 ENRIQUE O'KEEFE shall forfeit to the United States, any real or  
9 personal property constituting, derived from, or traceable to the  
10 proceeds that the defendant(s) obtained directly or indirectly as a  
11 result of the offense(s), pursuant to Title 18, United States Code,  
12 Section 981(a)(1)(C) and Title 28, United States Code,  
13 Section 2461(c).

14       18. If any of the property described above, as a result of any  
15 act or omission of the defendant:

- 16           a. cannot be located upon the exercise of due diligence;
- 17           b. has been transferred or sold to, or deposited with, a  
18 third party;
- 19           c. has been placed beyond the jurisdiction of the Court;
- 20           d. has been substantially diminished in value; or
- 21           e. has been commingled with other property which cannot be  
22 subdivided without difficulty;

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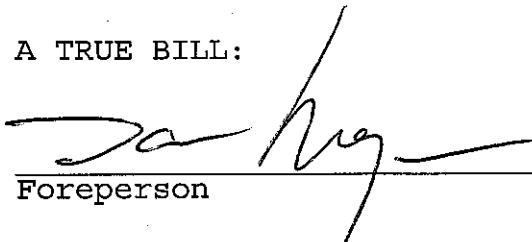
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1 it is the intent of the United States, pursuant to Title 21,  
2 United States Code, Section 853(p), made applicable herein by  
3 Title 28, United States Code, Section 2461(c) and Title 18,  
4 United States Code, Section 982(b), to seek forfeiture of any other  
5 property of the defendant up to the value of the said property  
6 described above as being subject to forfeiture.

7 DATED: August 20, 2014.

8 A TRUE BILL:  
9

10   
11 LAURA E. DUFFY  
12 United States Attorney

13 By: Valerie Chu  
14 VALERIE H. CHU  
15 Assistant U.S. Attorney

16 By: Valerie Chu for  
17 FRED SHEPPARD  
18 Assistant U.S. Attorney